

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 1432

INTRODUCER: Senator Baxley

SUBJECT: Foster Parents

DATE: April 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 1432 creates a new section in the Florida Statutes to establish specified rights for foster parents. The bill also provides roles and responsibilities required of the Department of Children and Families (DCF or department) related to foster parents. Those requirements include, but are not limited to:

- Providing an explanation of the role of the department and the child's biological family as it relates to the services provided to the child.
- Providing training and support to caregivers.
- Disclosing all relevant information regarding a child and the child's family's background.
- Allowing the caregiver to communicate with professionals who work with the child.
- Providing a means for the caregiver to contact the department at all times for the purposes of receiving assistance.
- Soliciting and considering caregiver input on a child's case plan.
- Providing the caregiver with an explanation of any plan concerning the placement of a child in the caregiver's home.
- Giving at least seven days' notice of any meeting or court hearings related to a child in the caregiver's care and allowing the caregiver to attend.
- Considering the caregiver as a first choice for placement if a child who was formerly placed with the caregiver re-enters out-of-home care.
- Providing the caregiver with a period of respite.

The bill requires all child abuse, abandonment, or neglect investigations involving a foster parent be conducted pursuant to part III of chapter 39 of the Florida Statutes, relating to child protective investigations. The bill also requires level 2 background screening for all adults in a foster home during an emergency situation.

The bill has no fiscal impact on the state and has an effective date of July 1, 2019.

## **II. Present Situation:**

### **The Child Welfare System**

The child welfare system is typically defined as a group of services designed to promote the well-being of children by ensuring safety, achieving permanency, and strengthening families to be able to care for their children successfully.<sup>1</sup> The primary responsibility for child welfare services rests with the States. Child welfare systems are complex, vary from state to state and they generally:

- Receive and investigate reports of known or suspected child abuse, abandonment, and neglect;
- Provide services to families that need assistance in the protection and care of their children;
- Arrange for children to live with relatives or with foster families when they are not safe at home; and
- Arrange for reunification, adoption, or other permanent family connections in order for children to safely leave foster care.<sup>2</sup>

### **Privatization of Child Welfare**

The Florida Legislature first began the initiative to outsource or privatize the administration of child welfare services in 1996.<sup>3</sup> At that time the legislature required the department to contract with established community-based care (CBC) organizations to establish pilot projects for the provision of foster care and “related services.”<sup>4,5</sup> The stated intent of this legislation was to strengthen the support and commitment of communities to their local children; to promote the reunification of families and the care of children and their families; and to realize efficiencies and increased accountability in delivering services to abused, neglected, or abandoned children. In 1998<sup>6</sup>, the legislature required the department to privatize the provision of all foster care and related services statewide. The transition was completed in Fiscal Year 2004-05.

As the result of this privatization, responsibilities that are traditionally placed with the state child welfare agency now belong to the community-based lead agencies.

### **Foster Parents and Family Foster Homes**

Foster care is care provided to a child in a foster family or boarding home, group home, agency

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<sup>1</sup> Child Welfare Information Gateway, *How the Child System Works*, Available at: <https://www.childwelfare.gov/pubPDFs/cpswork.pdf#page=1&view=Introduction> (Last visited April 3, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 96-402, L.O.F.

<sup>4</sup> *Id.*

<sup>5</sup> The term “related services” includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification.

<sup>6</sup> Chapter 98-180, L.O.F. The department was also required to submit a plan by July 1, 1999, to the Governor and Legislature, explaining how they would implement privatization statewide by January 1, 2003. This implementation date was subsequently extended, then deleted from statute.

boarding home, or child care institution.<sup>7</sup> A family foster home is defined as a licensed private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs.<sup>8</sup> Foster homes are licensed and inspected regularly.<sup>9</sup>

The department contracts with CBC partner agencies. The community-based lead agencies are responsible to recruit and train families across Florida who are willing to serve as foster parents.<sup>10</sup>

To qualify as a potential foster parent, applicants must go through a rigorous interview process, complete a training program, and participate in a home inspection and background check.<sup>11</sup> Foster parents are expected to:

- Provide parenting that consists of a loving commitment to the child and the child's safety and wellbeing;
- Provide opportunities to develop the child's interests and skills;
- Care for the child in light of the child's culture, religion, ethnicity, special physical or psychological needs and unique situations;
- Assist the biological parents in improving their ability to care for and protect their children and to provide continuity for the child;
- Assist the child in visitation and other forms of communication with his or her biological family;
- Obtain and maintain records that are important to the child's wellbeing, such as medical records and records of achievements;
- Advocate for children in their care with the child welfare system, the court, and community agencies, such as schools, child care, and health providers;
- Participate fully in the child's medical, psychological, and dental care as they would for their biological child; and
- Support the child's school success by participating in school activities and meetings.<sup>12</sup>

When Florida codified the principles of the Quality Parenting Initiative in 2013, current law now contains requirements for caregivers, the department, the community-based care lead agencies, and other agency staff.<sup>13</sup> These responsibilities are the same as those required in the bill.

### **Quality Parenting Initiative**

The Quality Parenting Initiative (QPI), is an approach to strengthening foster care by focusing on excellent parenting for all children in the child welfare system. It was started in 2008 in Florida,

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<sup>7</sup> Section. 39.01(3), F.S.

<sup>8</sup> The Department of Children and Families, Community-Based Care, Available at: <http://www.myflfamilies.com/service-programs/community-basedcare> (last visited April 3, 2019).

<sup>9</sup> *Id.*

<sup>10</sup> Florida Department of Children and Families, Fostering Definitions, Available at: <http://www.dcf.state.fl.us/service-programs/fostercare/definitions.shtml> (Last visited April 3, 2019).

<sup>11</sup> Section 409.175, F.S.

<sup>12</sup> Florida Department of Children and Families, *Partnership Plan for Children in Out-of-Home Care*, Available at: <http://centerforchildwelfare.fmhi.usf.edu/kb/OOHPublications/PartnershipPlan.pdf> (Last visited April 3, 2019).

<sup>13</sup> Section 409.145, F.S.

and as of 2018, over 75 jurisdictions in 10 states have adopted the QPI approach.<sup>14</sup> Florida codified the basic tenets of the program in 2013.<sup>15</sup>

In order to achieve well-being, all children need excellent parenting. When parents can't care for their children, the foster parent or relative caregiver must be able to provide the loving, committed, skilled care that the child needs, working with the child welfare system, to ensure children in out-of-home thrive. Both the caregiver's parenting skills and the system's policies and practices should be based on child development research, information and tools. QPI is based on five core principles:

- Excellent parenting is the most important service we can provide to children in out-of-home care. Children need families;
- Child development and trauma research indicates that children need constant, consistent, effective parenting to grow and reach their full potential;
- Each community must define excellent parenting for itself;
- Policy and practice must be changed to align with that definition; and
- Participants in the system are in the best position to recommend and implement that change.<sup>16</sup>

When QPI is successfully implemented it gives caregivers a voice in the child welfare system. They become a part of a team to support children in their care. Caregivers receive the support and training they need to work with children and families, understand what is expected of them, and know what to expect from the system. Systems are then better able to select and retain enough excellent caregivers to meet the needs of each child for a home and family. When these changes are accomplished, outcomes for children, youth and families will improve.<sup>17</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 39.4087, F.S., relating to rights of foster parents, department requirements and background screenings during an emergency, to create a new section in the Florida Statutes to establish specified rights for foster parents. The bill also provides roles and responsibilities required of the department related to foster parents. Those requirements include, but are not limited to:

- Providing an explanation of the role of the department and the child's biological family as it relates to the services provided to the child.
- Providing training and support to caregivers.
- Disclosing all relevant information regarding a child and the child's family's background.
- Allowing the caregiver to communicate with professionals who work with the child.
- Providing a means for the caregiver to contact the department at all times for the purposes of receiving assistance.
- Soliciting and considering caregiver input on a child's case plan.

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<sup>14</sup> Youth Law Center, *What is QPI* Available at: <http://www.qpi4kids.org/pages/whatIsQPI.html> (Last visited April 4, 2019).

<sup>15</sup> Chapter 2013-178, L.O.F.

<sup>16</sup> Youth Law Center, *What is QPI* Available at: <http://www.qpi4kids.org/pages/whatIsQPI.html> (Last visited April 4, 2019).

<sup>17</sup> *Id.*

- Providing the caregiver with an explanation of any plan concerning the placement of a child in the caregiver's home.
- Giving at least seven days' notice of any meeting or court hearings related to a child in the caregiver's care and allowing the caregiver to attend.
- Considering the caregiver as a first choice for placement if a child who was formerly placed with the caregiver re-enters out-of-home care.
- Allowing the caregiver a period of respite.

The bill requires all child abuse, abandonment, or neglect investigations involving a foster parent be conducted pursuant to part III of chapter 39 of the Florida Statutes, relating to child protective investigations. The bill also requires level 2 background screening for adults in a foster home during an emergency situation.

**Section 2** provides an effective date of July 1, 2019.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

### C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

There are a myriad of issues related to the implementation of the requirements of the bill:

- Lines 46-138 of the bill provide responsibilities of the department. In general, most, if not all, of these are responsibilities of the community-based lead agencies. In addition:
  - Lines 96-97 of the bill create s. 39.4087(2)(m), F.S., which requires the foster parent be given at least 7 days' notice of any meeting or court hearing relating to a child in his or her care. For a court hearing that is held on an emergency basis, the department would be unable to comply with the requirement.
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  - Lines 110-112 create s. 39.4087(2)(p), which would eliminate placement with a potential relative who the child may have been placed with within a 24-month period preceding the termination of parental rights as outlined in Chapter 63, F.S. The new language would not align with the selection of a placement based on the child's best interest as outlined in 65C-16.002 (2), F.A.C.
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  - Lines 139-147 create s. 39.4087(3), F.S., which seeks to allow a foster parent under investigation for child abuse, neglect, or abandonment the right to have an advocate present throughout all investigative activities conducted by the department. This may be problematic in those instances in which the department and law enforcement are conducting joint investigation as required by s. 39.302, F.S.; law enforcement personnel may not agree to this condition as part of their concurrent criminal investigation.
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  - Lines of 104-106 of the bill create s. 39.4087(2)(n), F.S., which requires the department, upon request by a foster parent, to provide information relating to a child's progress after the child has left the foster parent's home. Section 39.202(1), F.S., establishes the confidentiality of all records held by the department in order to protect the rights of the child and the child's parents. Section 39.202(2)(t), F.S., permits access to the records to the person with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, F.S., an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, F.S., preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents. The statute does not allow access to such records for former caregivers. As a result, the department must violate s. 39.202, F.S., in order to comply with newly-created s. 39.4087(2)(n), F.S. in lines 104-106.
- Lines 168-174 of the bill require level 2 background screening for all adults in a foster home in an emergency placement. Those individuals would have already been background screened at level 2 standards before becoming licensed.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates s. 39.4087 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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